

REMARKS

In the Office Action mailed January 15, 2009, claims 1-11, 13-21, 23, 28-29, 32, 37-38 and 43-48 were deemed subject to a restriction. More specifically, restriction is required as follows:

Group I – claims 1-11, 13-21, 23 and 43-48, are drawn to a method of preventing therapy for a predetermined quantity of block counts.

Group II – claims 28-29, 32 and 37-38, are drawn to a method of determining the number of stimulations per time period and then preventing therapy if the number of stimulations are above a predetermined amount.

Applicants elect claims Group I claims 1-11, 13-21, 23 and 43-46 and 48, with traverse. In particular, Applicants respectfully submit that in view of the prior examination on the merits, there can be no serious burden on the Examiner to continue to examine claims 28-29, 32, and 37-38. These claims (28-29, 32, and 37-38) have been examined and discussed in multiple Office Actions to which Applicants have responded. Applicants respectfully submit that a serious burden is a necessary showing in order to support a restriction. See MPEP §803. Accordingly, Applicant respectfully requests withdrawal of the restriction and examination of the pending claims.

The claims as now presented are believed to be in allowable condition. Applicants respectfully request consideration of the application and allowance of all pending claims. Please feel free to contact the undersigned should any questions arise with respect to this case that may be addressed by telephone.

Respectfully submitted,

Date: February 13, 2009

By:/William J. Allen/ _____
William J. Allen
Registration No. 51,393
BANNER & WITCOFF, LTD.
10 South Wacker Drive
Suite 3000
Chicago, IL 60606
Telephone: 312-463-5000
Facsimile: 312-463-5001